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S.B. CIVIL WRIT PETITION NO.8358/2007.
Mohan Nath Sidh Vs. State & Ors.

Date of Order :: 18th December 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. M.A. Siddiqui, for the petitioner.

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BY THE COURT:

The petitioner working as Tehsil Revenue Accountant was served with an order dated 28.09.2007 (Annex.14) informing him of the facts that for his having completed qualifying years of service as well as of his having attained the age of 50 years, in exercise of powers conferred under Rule 53(1) of Rajasthan Civil Services (Pension) Rules, 1996, the Chairman of the Board of Revenue had ordered retiring him from service in public interest with effect from the date of expiry of three months from the date of receipt of the said order by the petitioner.

Assailing the order aforesaid, the petitioner has filed an appeal before the Rajasthan Civil Services Appellate Tribunal, Jaipur, being Appeal No.2651/2007 on or about 29.10.2007. Thereafter, the petitioner has preferred this writ petition on 17.12.2007 and after narrating the facts relating to his service career, the petitioner has averred that the whole purpose of

filing of the writ petition would be frustrated after 28.12.2007 as the period mentioned in the order impugned (Annex.14) is going to expire on 28.12.2007 and that would cause irreparable injury to him; and hence, in the compelling circumstances, he was preferring the writ petition before this Court.

While learned counsel for the petitioner attempted to argue the matter on merits, a question was posed if the petitioner moved a stay application before the Tribunal and if pressed the same for consideration? Learned counsel informed that the petitioner did move a stay application but then, the Tribunal has only issued notices in the matter and has fixed the matter for 08.01.2008.

The petitioner has not stated in the writ petition if at all he had pressed the stay application before the Tribunal and whether the Tribunal has declined to pass any interim order. No such order sheet has been produced either. Learned counsel submitted that in the peculiar circumstances of the case, till the next date of hearing before the Tribunal, operation and effect of the impugned order dated 28.09.2007 (Annex.14) may be stayed and the Tribunal may be directed to decide the appeal expeditiously. The submissions do not merit acceptance.

The petitioner has not been categoric and specific in his petition whether he pressed his prayer for stay before the Tribunal or not. Then, if the Tribunal has not been persuaded to pass any interim order in the matter, there appears no reason for this Court to consider passing of any interim order in this matter looking to the overall facts and circumstances of the case. So far expeditious disposal of the appeal is concerned, there is nothing on record to show if the petitioner has made any such prayer before the Tribunal to decide the appeal at an early date and it cannot be assumed that if the petitioner would have made such a prayer, the Tribunal would not have considered the same.

For the matter being pending before the Tribunal, there appears no reason to consider any interference in this writ petition and the petition does not merit admission.

However, in the interest of justice, it is clarified that no observations herein shall be construed of any expression by this Court on the merits of the case nor would prevent the petitioner from still making a prayer for stay before the Tribunal concerned and so also a prayer for consideration of the appeal expeditiously.

Subject to the observations aforesaid, the writ petition stands rejected.

(DINESH MAHESHWARI), J.

Mohan/